IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.2408 OF 1991

Tukaram Dhondi Khadake,
deceased by his heirs _

1) Smt.Savitri W/o.Tukaram Khadake,
Age 60 years, Occu: Agriculturist

2) Dhondiram Tukaram Khadake,
Age 40 years, Occu: Agriculturist

3) Laxman Tukaram Khadake,
deceased by his heirs -
a) Smt.Hirabai Laxman Khadake
b) Sunil Laxman Khadake
c) Anil Laxman Khadake

4) Chinta Tukaram Khadake
Age 36 years, Occu: Agriculturist

5) Nana Tukaram Khadake
Age 32 years, Occu: Agriculturist

All Residents of Kerli, Taluka Karvir,
District: Kolhapur.

6) Akkatai Bhagwan Patil
Age 34 years, Occu: Agriculturist
R/o. Koge, Taluka Karvir,
District: Kolhapur .. Petitioners

V/s

Smt.Gangubai Ramchandra Khadake,
deceased by her heirs -

1) Anubai Krishnat Patil, Age 50 years
2) Kisabai Yashwant Koparde, Age 48 yrs.
3) Vithabai Ananda Koparde, Age 45 yrs.
All residing at Kerli, Tal.Karvir,
District Kolhapur.

4) Malubai Yashwant Mane, Age 42 years
Occ.Household, R/o.Bhuye-Turf Wadi,
Tal.Karvir, Dist: Kolhapur

5) Muktabai Maruti Shinde, Age 40 years
Occ.Household, R/o.Kushire,
Tal.Panhala, Dist.Kolhapur

6) Nanubai Ishwara Todkar,
since deceased her heirs _

i) Jaywant Ishwara Todkar,

Age 40 yrs. Occ.Agriculturist

ii) Datta Ishwara Todkar,
Age. 38 yrs. Occu.Agriculturist

iii) Ananda Ishwara Todkar,
Age 36 yrs. Occ.Agriculturist

iv) Raghunath Ishwara Todkar,
Age 31 yrs. Occ.Agruculturist

All residents of Kushire,
Tal.Panhala, Dist: Kolhapur.

v) Akkatai Kashinath Patil,
Age 29 yrs.Occu.Household,
R/o Bhuye Turfe Wadi,
Tal.Karvir, Dist: Kolhapur

vi) Muktabai Vishnu Patil,
Age 34 years Occu.Household
R/o Pohale, Tal.Panhala
Dist: Kolhapur .. Respondents

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Mr.M.R.Suryavanshi for the Petitioners.
Mr.A.R.Kapadnis h/f Mr.S.G.Karandikar for Respondents.

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CORAM: DR.S.RADHAKRISHNAN,J.

DATE : 10.02.2006

P.C.:

1. Heard the learned Counsel for the parties. By this Petition, the Petitioners have challenged the orders passed by the Additional Commissioner, Pune Division dated 11.9.1987 and the order dated 29.6.1990 passed by the learned Principal Secretary of Revenue and Forest Department, Government of Maharashtra.

2. The brief facts are that the Respondent herein viz.Gangubai (deceased), who was the widow of one Chandrappa had claimed that the mutation entry ought to

be in her name. However it was the case of the Petitioner herein that the said Chandrappa had executed a Will in favour of the Petitioner on 11.5.1971 and that before execution of the said will the Petitioner was put in possession of the suit land. Mr.Suryavanshi, the learned Counsel for the Petitioners has pointed out that the Sub-Divisional Officer, Karvir, had passed an order dated 11.2.1982 in favour of the Petitioner herein holding that the mutation entry ought to be changed in the name of the Petitioner. Aggrieved thereby it appears that the Gangubai (Respondent herein) had preferred an appeal before the learned Additional Collector, Solapur, who by his order dated 13.12.1985 concurred with the order of the the Sub-Disisional Officer. Gangubai thereafter had preferred the revision application before the Additional Commissioner, Pune, who by his detailed order dated 11.9.1987 allowed the said revision application. Gangubai was succeeded and accordingly the Additional Commissioner, Pune had directed to make mutation entries in the name of Gangubai and her daughters. In his order, the Additional Commissioner has considered all the aspects including the earlier litigations going on between the Chandrappa and the brother of the present Petitioner viz.Balu. It appears that Balu was subsequently murdered and even his sons were convicted for his murder. In the said litigations it appears that ultimately the Chandrappa had succeeded. The Additional Commissioner has also taken into account that the

Chandrappa was illeterate and had put thumb impressions on all documents except the Will dated 25.5.1972 which was purportedly signed by Chandrappa. Chandrappa died on 23.9.1973 and it appears that the Will was registered on 11.11.1975 i.e. two years after his death. The learned Additional Commissioner has observed that there was no reason why the Chandrapa should not bequeath the land to his own widow and daughters, and by a detailed reasoning, he has allowed the revision application in favour of Gangubai. There is no dispute that right from the death of Chandrappa on 23.9.1973 the Gangubai (widow of Chandrappa) has been in possession of the suit land and now her legal heirs being her daughters are in possession of the said suit land. Aggrieved by the decision of the Additional Commissioner, it appears that the present Petitioner had approached the Principal Secretary (Revenue Appeals and Revisions) Revenue and Forests Department, Government of Maharashtra, and it appears that the learned Principal Secretary by his order dated 29.6.1990 has concurred with the reasonings of the learned Additional Commissioner, and accordingly declined to interfere with the same, The Petitioner therefore has challenged the aforesaid two orders viz.order dated 11.9.1987 passed by the learned Additional Commissioner and the order dated 29.6.1990 passed by the learned Principal Secretary (Revenue Appeals and Revisions) Revenue and Forests Department.

3. Having heard the learned Counsel for the parties and

having perused both the aforesid orders impugned by the Petitioner viz.the order passed by the learned Additional Commissioner dated 11.9.1987 and the order passed by the learned Principal Secretary dated 29.6.1990, I do not find any patent illegality or error in the said orders so as to interfere with the same by exercising the power of superintendence under Article 227 of the Constitution of India. Both the above orders are based on sound reasoning and nothing can be said perverse. There is no substance in the Writ Petition. Hence, the Rule stands discharged.

(DR.S.RADHAKRISHNAN,J.)